

APPROVED

CHAPTER

MAY 27 '03

326

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

H.P. 1151 - L.D. 1578

An Act To Make Filling Out-of-State Prescriptions for
Schedule II Drugs More Convenient

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, prescriptions for schedule II drugs issued by health care providers must be written on security prescription blanks; and

Whereas, some prescriptions for schedule II drugs are prescribed by health care providers from other states; and

Whereas, to allow patients to continue to receive their prescriptions for schedule II drugs prescribed by out-of-state health care providers this legislation must take effect immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 32 MRSA §13786-A, sub-§§2 to 4 are enacted to read:

2. Out-of-state prescription security requirements.

Notwithstanding any law or rule to the contrary, a prescription for a schedule II drug written by an out-of-state practitioner on a prescription blank that does not comply with the requirements for a security prescription blank, as defined in the Department of Public Safety rule pursuant to subsection 1, may be filled by a pharmacist only if:

A. The pharmacist receives and makes a record of oral confirmation of the validity of the prescription from the out-of-state practitioner or the practitioner's agent and the pharmacist makes a reasonable effort to determine that the oral confirmation came from the practitioner or the practitioner's agent, which may include a telephone call to the practitioner's telephone number listed in a telephone directory or other directory or other good faith efforts to confirm the identity of the person giving the oral confirmation; and

B. The pharmacist demands, inspects and records a valid photographic identification from any person presenting a prescription or receiving a filled prescription unless:

(1) The person is the patient for whom the prescription is written;

(2) The person's identity is personally known to the pharmacist; and

(3) The pharmacist confirms by reviewing the pharmacy records that the pharmacist has previously demanded, inspected and recorded a valid photographic identification from the person.

3. Valid photographic identification. For the purposes of subsection 2, a valid photographic identification is limited to the following:

A. A valid Maine motor vehicle operator's license;

B. A valid Maine identification card issued under Title 29-A, section 1410;

C. A valid United States passport; or

D. A valid passport or motor vehicle operator's license of another state, territory or possession of the United States or a foreign country only if it:

(1) Contains a photograph of the person presenting the prescription;

(2) Is encased in tamper-resistant plastic or is otherwise tamper-resistant; and

(3) Identifies the date of birth of the person presenting the prescription.

4. Partial filling of out-of-state prescriptions. The partial filling of a prescription for a schedule II drug written by an out-of-state practitioner on a prescription blank that does not comply with the requirements for a security prescription blank, as defined in the Department of Public Safety rule pursuant to subsection 1, is permissible if the pharmacist is unable after reasonable effort to obtain the oral confirmation described in subsection 2 in the case of the practitioner's office being closed during nights, weekends or holidays. The partial filling is limited to a 72-hour supply of the controlled substance. The remaining portion of the prescription may be filled within the 72-hour period upon obtaining the oral confirmation. No further quantity may be filled beyond the 72 hours without a new prescription.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.